IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.10608 OF 2004

Sudha Pandit, .. Petitioner

Vs

Konkan Railway & Anr. .. Respondents

Mr A.D.Shetty, for the petitioner.

Ms Aditya Chitale, for the respondents.

CORAM : V.G.PALSHIKAR & D.B.BHOSALE,JJ.

DATE : 22nd August, 2005.

PC:

1. Heard learned counsel for the parties.

2. By this petition, the petitioner has impugned an action of the respondent-corporation in not permitting the petitioner to the post of Assistant Manager (IT).

3. The contention of the petitioner is that she was qualified and had secured the highest marks in the written examination and yet she has not been selected. Notice why the petition be not admitted was issued and an affidavit in reply has been filed. The entire factual situation existing is explained in the

affidavit. In para 7 of the reply, it is submitted that it was in order to avoid stagnation and feeling of frustration amongst the employees in I.T. Department, a policy decision was taken to permit all the graduate employees in the IT Department to appear for the examination for the post of Assistant Manager-IT. That being a categorical statement, the permission granted to all graduate employees in the IT Department, cannot be impugned by the petitioner because she herself had taken advantage of the relaxation and appeared for the examination. Factually, the petitioner has failed in the written examination and, therefore, was not promoted. This contention on the affidavit of the responsible officer of the Corporation clearly goes to show that the petitioner was given an opportunity to seek promotion, the opportunity was availed and the petitioner failed. Having chosen to take the concession and appeared for the examination, now it is not open for the petitioner to contend that the relaxation was bad. In view of this factual position which is further reiterated in para 9 of the affidavit, we see no reason to interfere. The writ petition is dismissed.

(D.B.BHOSALE, J.) **(V.G.PALSHIKAR,J.)**